IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5425 OF 2004
WITH
CRIMINAL APPLICATION NO.5426 OF 2004
WITH
CRIMINAL APPLICATION NO.5427 OF 2004

Prem Gupta and Anr. .. Applicants
Versus
State of Maharashtra & Anr. .. Respondents

Mr.Vivek Sharma i/b. Sanjog S. Parab for applicant
Mr.R.Y.Mirza, A.P.P. for respondent No.1
Mr.J.J.Saxena for respondent No.2

CORAM : S.C.DHARMADHIKARI, J.
DATE : 1st December 2005.

P.C.

. Heard Mr.Sharma for applicant and Mr.J.J.Saxena for respondent No.2 original complainant.

2. Applicant is one of the director of a

company namely Atash Industries Ltd. He is a senior citizen and is suffering from several ailments. As far as the complaint is concerned, there is no averment with regard to the role of applicant. It does not set out the averments that are stipulated by law and now succinctly set out in a judgement of Supreme Court in the case of S.M.S.Pharmaceuticals Vs. Neeta Bhalla, reported in J.T.2005 (8) 450.

3. Mr.Saxena, learned Counsel appearing for original complainant, therefore, found it difficult to support the order passed by the learned Judge issuing process as far as applicant is concerned. He also could not dispute that the complaint does not set out as to how the present petitioner was connected with the day to day affairs of the said company. Over and above, he was fair in pointing out that considering the petitioner is a senior citizen and suffering from several ailments, complaint as far as present

petitioner is concerned, be quashed. Rule is accordingly made absolute in terms of prayer clause (a). Mr.Saxena undertakes to file his vakalatnama within a period of one week from today.

(S.C.DHARMADHIKARI, J)